

LFC Requester:	Katie Chavez
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: **Date** March 10, 2015
Original **Amendment**
Correction **Substitute** **Bill No:** SB 236A

Sponsor: Sen. Sue Wilson Beffort **Agency Code:** Attorney General's Office
Short CHARTER SCHOOL **Person Writing** Joshua R. Granata, AAG
Title: LEASE APPROVAL **Phone:** 827-6088 **Email** jgranata@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

Senate Bill 236A amends the proposed SB 236 by restoring the language on page 10, lines 8 and 9 as well line 21. Whereas the proposed bill would have rendered a contract void for violation of the subsection, by restoring the language from the proposed bill the contract is “voidable at the option of the chartering authority, the department or the governing body.”

Senate Bill 236 is an act that proposes to amend Section 22-8B-4 to -5 and Section 22-24-4. The act would require the Public School Capital Outlay Council (PSCOC) to approve lease payments in order for charter schools to use school district facilities. The act would require that new charter schools and charter schools that wish to relocate cannot do so unless the school, within 18 months of occupancy or relocation, attains a rating equal to or better than the average NM condition index. Also, violations of a conflict of interest by member of the school’s governing body or an employee of a charter school, and certain family members, would render contracts between the school and the individual void, rather than voidable. Further, the act would also require the PSCOC to develop a standardized facility lease for use by all charter schools. Lastly, the act would provide that the Public Education Commission assumes an additional duty to annually review and approve all charter school conflict of interest disclosure statement.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

There are no significant issues with SB 236A as amended.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 128 proposes to amend Section 22-24-4 to allow for an increase in funds allocated to the public school capital outlay fund and the manner in which the money can be used. Additionally, the term in which the money can be used is increased from two to three years.

TECHNICAL ISSUES

Section 22-8B-4(F), line 16, uses the discretionary word “may” regarding reasonable lease payments between the charter school and the school district. Perhaps the word “shall” should be used in order to ensure that the agreement for lease payments are reasonable.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the bill is not enacted, situations will arise in which charter schools can comply with the act by “demonstrating” how a proposed facility will achieve a rating equal to or better than average NM condition index. In practice, however, significant problems may arise which delay a school from actually attaining an appropriate NMCI rating. The result is that children would remain in a facility without an appropriate rating, and the Public Education Commission, which has oversight authority, has to decide what action, if any, to take against the charter school.

AMENDMENTS

See above “Technical Issues”.